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ABSTRACT

This article discusses the U.S. Department of Health, Education, and Welfare's regulations governing implementation of Title IX of the Education Amendments of 1972 and offers information and guidelines to aid school personnel in complying with the Title IX regulations. The author briefly describes the purpose of Title IX and presents examples of the type of information that must be gathered by school officials to demonstrate compliance with the Title IX regulations. He provides a sample checklist used by the Los Angeles Unified School District to evaluate each school's programs and activities for Title IX compliance and outlines the type of information gathered by the Office of Civil Rights in conducting onsite reviews. Approximately half of the article consists of questions and answers about Title IX that are commonly asked of HEW officials. (JG)

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IMPLEMENTING TITLE IX ON THE SECONDARY LEVEL

by William L. Craig

On July 21, 1975, after nearly four years of discussion and heated debate, Title IX regulations of the Education Amendments of 1972 went into effect. It is most revealing to explore all of the literature dealing with Title IX. The ramifications of this new law may not modify your school's approach to curricular and extra-curricular programs but all of us have responsibilities for which you may not be aware at this time, and time is fleeting.

For example, each district is required to evaluate all educational programs and activities which it conducts for compliance with Title IX. Plans for full compliance must be effected throughout your district by July 21, 1976 (with exceptions in Physical Education and Athletics noted later).

In the process of implementing Title IX, you will find HEW, County and State Departments of Education, the local area Office of Civil Rights, and neighboring school districts are most ready and willing to assist you in establishing methods of evaluation of your present programs, sharing with you letters of notification to students, staff and parents, check-lists for determining present status of compliance, brochures describing Title IX and its effects on education, and pamphlets dealing with sex discrimination in education. The procedures and materials developed by the Los Angeles City Unified School District are most impressive. Of particular value is the Los Angeles check-list used by each administrator in evaluating how his school programs and activities are conducted in relation to Title IX. This instrument asks principals to check each item "Yes", "No" or "Does not apply". If items are checked "No", plans and dates for compliance are to be attached and returned to the district office. To give you a better picture of this evaluation process a few of the fifty-five items are listed:

1. Staff has been informed that the district must maintain on file, for at least three years following the completion of the required evaluation, a description of the modifications made to accommodate Title IX.

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2. School and district publications include an initial statement of the district's policy of nondiscrimination on the basis of sex in the programs or activities which it operates.
3. The opportunities for participation in extra-curricular programs and activities are equally available to members of either sex.
4. All students, regardless of sex, are subject to the same rules of behavior in all education programs and activities.
5. All courses, classes and activities (except specified contact sports and classes dealing exclusively with human sexuality) are available to either sex.
6. No course, class or activity is required of one sex that is not required of the other.
7. As soon as possible, but in no case later than July 21, 1978, all classes in Secondary Physical Education will be coeducational.
8. All counseling and guidance of students is free from sex bias.

In reviewing these items you can see that we must determine what is required of our districts by Title IX, when must it be completed, how will it be implemented and who will be responsible for its implementation.

In essence, the purpose is to eliminate discrimination on the basis of sex in any educational program or activity. Each recipient institution shall evaluate its current policies and practices concerning the treatment of students and employment of personnel and shall take appropriate remedial steps to eliminate any adverse effects which have resulted.

In a memorandum dated September 17, 1975, Mr. Floyd Henderson, Director of the Elementary and Secondary Division of HEW, outlined information to be obtained by representatives of the Office of Civil Rights in conducting on-site reviews. Since no specific instruments have been developed for self-evaluations by HEW, these items should be considered important points for your analysis, in two crucial areas.

First, in Physical Education, an on-site review will request, in part:

1. Number and description, including the grade level, of all Physical Education classes conducted separately for males and females.
2. Number and description, including the grade level, of all Physical Education classes conducted on a coeducational basis.
3. Where Physical Education classes are being conducted separately for males and females:
   A. A description of any barriers preventing immediate compliance with Title IX requirements;
   B. A description of the steps being taken to overcome such barriers and a timetable for their implementation.
4. On-site, determine whether the school is complying as expeditiously as possible. In doing this, inspect facilities, examine curriculum guides, and interview staff to determine what they are doing to convert to a coeducational program and what problems they are encountering or foresee.

Secondly, in intramural, club and interscholastic-athletics an on-site review will request, in part:

1. For each school, list by sport and level (i.e. intramural, varsity, junior varsity) the number of teams engaged in competition, including the number of:
   A. All-male teams and number of members on a team;
   B. All-female teams and number of members on a team;
   C. Mixed teams (how many males and females are on each team?)
2. A list of the number of competitive events each of the teams has scheduled.
3. Total amount of practice time each team is allotted and a description of the practice facilities and specific time periods allotted each team for their use.
4. Inspect and describe the extent to which equipment and uniforms provided members of each sex are comparable.
5. Interview athletic directors, coaches, physical education teachers, and students (particularly student athletes) to determine to what extent they think the

interests and abilities of members of both sexes have been effectively accommodated.

6. Where members of both sexes do not currently have equal opportunity in a recipient's athletic program:

   A. What steps are being taken to provide equal opportunity?

   B. What are the barriers to their immediate implementation?

The following are some questions and answers about Title IX which have been asked most often of HEW officials:

Q. Who is covered by Title IX?

A. Virtually every college, university, elementary and secondary school and pre-school is covered by some portion of the law. Many clubs and other organizations receive federal funds for educational programs and activities and likewise are covered by Title IX in some manner.

Q. Are textbooks and other materials covered under the governing regulations?

A. No. HEW has remained firm in its conviction that "any specific regulatory requirement in this area raises constitutional questions under the first amendment. . .(and) that local education agencies must deal with this problem in the exercise of their traditional authority and control over curriculum and course content".

Q. May girls be required to take Home Economics as long as boys are not prohibited from taking the course?

A. No. The regulations provide that no course may be required on the basis of sex. Furthermore, no course may be offered to only one sex; preference in admissions to courses may not be made on the basis of sex; and courses may not be described as being more appropriate for one sex or the other.

Q. Are there any exceptions?

A. The one exception is that separate sessions of <u>otherwise coeducational</u> classes <u>may</u> be allowed when the materials and discussion deal exclusively with the subject of human sexuality.

Q. May Physical Education classes be offered separately?

A. No. Schools may not offer separate sections for Physical Education. However, the regulations do include the following qualifications to that rule:

1. Within classes, students may be separated by sex for contact sports (defined by the regulations to include wrestling, boxing, basketball, football).

2. Within classes, students may also be grouped by ability, even if such groupings result in single-sex or primarily single-sex groups. Sex may not, however, be the criteria for such groupings. Such ability grouping may occur only after students are assigned to a class or have elected a class.

3. Also, in the instance where a single evaluation standard has an adverse impact on one sex, schools may use a different evaluation standard or standards in Physical Education classes.

Q. What sports does the term "Athletics" encompass?

A. The term "Athletics" encompasses sports which are a part of interscholastic, intercollegiate, club or intramural programs.

Q. In athletics, what is equal opportunity?

A. In determining whether equal opportunities are available, such factors as these will be considered:

1. Whether the sports selected reflect the interests and abilities of both sexes;

2. Provision of supplies and equipment;

3. Game and practice schedules;

4. Travel and per diem allowances;

5. Coaching and academic tutoring opportunities and the assignment and pay of the coaches and tutors;

6. Locker rooms, practice and competitive facilities;

7. Medical and training services;

8. Housing and dining facilities and services.

9. Publicity.

Q. Must an institution provide equal opportunities in each of these categories?

A. Yes. However, equal expenditures in each category are not required.

Q. When are separate teams for men and women allowed?

A. When selection is based on competitive skill or the activity involved is a contact sport, separate teams may be provided for males and females, or a single team may be provided which is open to both sexes. If separate teams are offered, a recipient institution may not discriminate on the basis of sex in providing equipment or supplies or in any other manner. Moreover, the institution must assure that the sports offered effectively accommodate the interest and abilities of members of both sexes.

Q. What sports are classified as being based upon competitive skills?

A. Competitive skills are involved when tryouts are held to determine participation on a team.

Q. How does a school determine what kinds of teams or activities to provide?

A. The goal of the final regulations governing athletics is to secure <u>equal opportunity</u> for males and females while permitting schools and colleges flexibility in determining the best way to provide such opportunity. However, such flexibility does not alter the responsibility which recipient institutions have with regard to providing <u>equal</u> opportunity. Under the guidelines, <u>equality of opportunity</u> means that recipients must "select sports and levels of competition which effectively accommodate the interests and abilities of members of both sexes." Thus, an institution would be required to provide separate teams for men and women in situations where only one team would not accommodate the interests and abilities of members of both sexes. This applies whether sports are contact or non-contact.

Q. If there are insufficient women interested in participating on a women's track team, must the institution allow an interested woman to compete for a slot on the men's track team?

A. If athletic opportunities have previously been limited for women at that school, it must allow women to compete for the men's team if the sport is a noncontact sport such as track. The school may preclude women for participating on a men's team in a contact sport. A school may preclude men or women from participating or teams for the other sex if athletic opportunities have not been limited in the past for them, regardless of whether the sport is contact or noncontact.

Q. How do the regulations govern counseling practices?

A. While more difficult to pinpoint, discrimination in counseling has also been prohibited by Title IX. Forbidden under the guidelines are such practices as:

1. Using sex-differentiated aptitude tests;
2. Making different academic or vocational recommendations to a boy and girl with comparable scores on the same test;
3. Advising students to take one course or another based on their sex.

Furthermore, the regulations require that where tests have a discriminatory effect, the school bears the burden of justifying the use of such tests.

Q. How do you determine whether counseling practices are discriminatory?

A. While it is more difficult, certain indicators can and will be used to identify discriminatory counseling practices. If there is a class or course of study which has a disproportionate number of members of one sex, for example, the school is required to assure that the disproportion does not stem from discrimination by counselors or materials.

There are many fine articles on this subject, including an excellent series of three executive handbooks published by the American Association of School Administrators on sex equality in education, and in a lighter vein, the article in our NASSP bulletin of September 1974 by Alice Fins, titled "Sex and the School Principal--A Long Look At Title IX."

If you have any questions regarding enforcement procedures, Title IX will be enforced by the Office of Civil Rights along with other legislation prohibiting discrimination based on race, color or national origin. Investigations by the Office of Civil Rights will be based both on individual complaints and on independently-initiated compliance checks.

Caspar Weinberger, Secretary of Health, Education and Welfare in a news release dated June 3, 1975 stated, in part:

> "We intend to approach Title IX enforcement in a constructive spirit. We want to achieve the goals of the title as soon as possible, rather than undergo a series of futile confrontations and endless law suits. We call upon schools and colleges to do their utmost in the same spirit.
>
> To their great credit, many are already moving in good faith to end sex discrimination. For such schools, Title IX, as we propose to administer it, can only help. For those that are not trying in good faith to end discrimination against women, I have one message: We can wait no longer. Equal education opportunity for women is the law of the land--and it will be enforced." End Quote.

Much of this information, based primarily on HEW literature, is dressed in legal terminology. The goal of this article was to discuss the Implementation of Title IX. While some of your questions and concerns on this subject matter may need to be referred to a representative of the Office of Civil Rights for a more definitive answer, it is hoped this presentation will provide you with a clearer understanding of the new regulations.

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